

# COMMITTEE OF BAR EXAMINERS OPEN SESSION AGENDA ITEM

**AGENDA ITEM:** January 2015 – O-401

**DATE:** January 27, 2015

**TO:** Subcommittee on Educational Standards

**FROM:** George Leal, Director, Educational Standards

**SUBJECT:** **Proposed Amendments to Accredited Law School Rules, Rules 4.160 and 4.165 and New Guidelines 15.1 – 15.4 (Opening and Operating Branch or Satellite Campuses) – Return from Public Comment**

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## BACKGROUND

The *Accredited Law School Rules* (Rules) currently provide only the following in regard to establishing a campus at a location other than California-accredited law school's (CALS) existing campus:

Rule 4.165 Major Changes

The following are major changes:

\* \* \*

- (B) changing the location of the school or the location of a branch, or opening a new branch;

Pursuant to this requirement, if a CALS seeks to offer some or all of its curriculum at a location other than its existing campus, it must first seek prior approval of the Committee of Bar Examiners (Committee) as required by Rule 4.1264.

Currently, however, neither the Rules nor the *Guidelines for Accredited Law School Rules* (Guidelines) appear to provide sufficient guidance as to what constitutes a “branch” campus, or what might constitute a campus that is intended to offer students less than a four-year curriculum leading to the award of a Juris Doctor degree, which is commonly referred to as a “satellite” campus.

The Committee has in past granted approval for three CALS to open and operate branch campuses. They include: Monterey College of Law; Southern California Institute of Law and, most recently, San Francisco Law School. When it received its accreditation in July 1996, Southern California Institute of Law was authorized to operate its primary campus in Ventura and a branch campus in Santa Barbara. In 2009, Monterey College of Law received approval to open and operate a branch

campus in Santa Cruz that offers only the first-year of its Juris Doctor degree curriculum. Earlier this year, San Francisco Law School received approval to open a provisionally-accredited branch campus in San Diego, which, when opened, will offer a four-year Juris Doctor curriculum and will be, in essence, an entirely new law school. Two other CALS operate with two separate campuses: Santa Barbara and Ventura Colleges of Law and University of West Los Angeles, which while operating under single governance structures, are more-or-less treated as separate CALS, i.e., separate Annual Compliance Reports, statistics, etc.

At its meeting on January 25, 2014, the Committee directed staff to draft additions to the Guidelines:

that makes clear that if a California-accredited wants to establish a three or four-year branch campus, the new campus must meet the criteria for accreditation independently, although certain requirements may be shared, such as the dean and that a satellite branch campus may be established for a limited purpose, such as providing a portion of the education at another location.

Under this direction, additions to the Rules and Guidelines were drafted and submitted to the Committee's Advisory Committee on California Accredited Law School Rules (RAC) for consideration during its meeting on March 14, 2014. In response, the Deans from several CALS suggested several revisions and modifications.

After review of the CALS' input and staff's recommendations, the proposed amendments to the Rules and Guidelines were approved in principle, subject to a public comment period.

## **DISCUSSION**

Rules (Rule 4.160(H) and 4.165(B)) should be amended to provide the Committee express authority to grant approval to a CALS that seeks to open any new location, whether a branch or satellite campus.

To achieve that goal and meet the Committee's intent that any approved branch campus offering a three-year, full-time or four-year, part-time Juris Doctor degree operate as an independently-accredited campus, a new set of Guidelines (Division 15) were drafted. As defined, a branch campus is any new location where a CALS offers students more than fifty percent of its J.D. curriculum, or the curriculum of any other law degree it is authorized to award. Any such campus must operate with a qualified, full-time administrator and will operate as a provisionally-accredited campus for no less than its first two years of its operation. Thereafter, upon an application, it may be granted accredited when, after an inspection, it is confirmed that the campus is independently compliant with each of the Rules and Guidelines. It is anticipated the examination statistics would be reported for each campus independently of any other.

As further proposed, a satellite campus is any new location where a CALS intends to offer no more than fifty percent of its J.D. curriculum or the curriculum of any other law

degree it is authorized to offer. As a satellite campus, it will not be considered provisionally-accredited unless or until the CALS given approval to open it as a satellite chooses to expand its curriculum to then be considered a branch campus.

The new Guidelines also provide a workable schedule for a CALS to apply for and obtain the Committee's approval before the new campus (branch or satellite) is to open. To avoid unnecessary delay and to permit the Committee to be able to give final approval to a CALS for a proposed new campus before it actually opens, the proposed Guidelines will allow the Dean of the applicant CALS to certify that the new branch or satellite campus will be in substantial compliance with the Rules and Guidelines on the day it opens. The branch campus will then be permitted to operate with provisional accreditation for at least the next two years. Thereafter, if a CALS wishes to have the branch campus deemed accredited, it will need to submit an application and permit an inspection to confirm its then, independent compliance.

### **Public Comment**

The proposed amendments were posted on the State Bar's website for public comment and one only comment was received.

#### **Gregory Brandes, Professor and Executive Director, Concord Law School**

Among other supportive comments, Professor Brandes says "The proposed regulations provide adequate short term and longer term assurances of compliance, too, through the required Dean's letter ahead of opening, the 90-day report after opening, the two (2) year review, and the provisional approval status. These regulations should be approved, both to meet the growing need for legal services and to reduce the cost of legal education." And goes on to say: "the public is protected from any realistic risk of a campus being opened and operated for any extended period without at least substantial compliance, and the Committee is empowered to act effectively in respect to both gaining information needed to evaluate the prospective location and reviewing the initial grant of provisional approval." In a separate document, he submitted several technical proposed changes, which were suggested to clarify and standardize the language. Several of his suggested adjustments have been incorporated into the final version of the proposed amendments, which is attached as Attachment A.; none of them affect the substance or original intent of the proposed amendments. A copy of his letter is available upon request.

### **RECOMMENDATION**

It is recommended that the Subcommittee recommend to the full Committee that the proposed amendments to Rules 4.160 (H) and 4.165(B) of the *Accredited Law School Rules* as attached hereto be adopted, subject to approval by the Board of Trustees; that the proposed Guidelines 15.1 through 15.4 of Division 15 (Opening and Operating Branch or Satellite Campuses) to the *Guidelines for Accredited Law School Rules* as attached hereto be adopted, subject to the Board of Trustee's approval of the proposed amendments to Rules 4.160 (H) and 4.165 (B); and that the proposed amendments be forwarded to the Board of Trustees for consideration during its March 2015 meeting.

## PROPOSED MOTION

If the Subcommittee agrees with this recommendation, the following motion is suggested:

Move that the proposed amendments to Rules 4.160 (H) and 4.165(B) of the *Accredited Law School Rules* as attached hereto be adopted, subject to approval by the Board of Trustees; that the proposed Guidelines 15.1 through 15.4 of Division 15 (Opening and Operating Branch or Satellite Campuses) to the *Guidelines for Accredited Law School Rules* as attached hereto be adopted, subject to the Board of Trustee's approval of the proposed amendments to Rules 4.160 (H) and 4.165 (B); and that the proposed amendments be forwarded to the Board of Trustees for consideration during its March 2015 meeting.